

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT
Renewal of Regional General Permit (RGP) No. 53
Routine Flood Control Maintenance
of Bridges, Culverts and Selected Channels

Permittee: County of San Diego, Department of Public Works

Permit Number: 200500205-JMB

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To perform routine flood control maintenance of bridges, culverts and selected channels that would include mechanical clearing of debris, sediment and/or vegetation to prevent flooding of adjacent roadways or buildings, as shown on the attached tables and drawings.

Project Location: In various waters of the U.S. throughout San Diego County, California, as shown on the attached tables and drawings.

Permit Conditions

General Conditions:

1. RGP 53 is valid until **September 22, 2010**. Requests to renew this RGP should be received at least 6 months prior to the proposed expiration date.
2. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

4. You must allow representatives from this office to inspect the activities authorized by this RGP at any time deemed necessary to ensure that they are being or have been accomplished according to the terms and conditions of your permit.

Special Conditions:

1. Notification:

(A) Timing: The project proponent, the County of San Diego Department of Public Works (DPW) must notify the District Engineer (cc: USFWS, USEPA, and RWQCB) as early as possible and shall not begin any activity:

- 1) Until notified by the District Engineer that the activity may proceed under the RGP with any special conditions imposed by the District or Division Engineer. It is expected that there will be a quick turn-around/authorization by the Corps as this RGP is meant to avoid flooding hazards.
- 2) The applicant may notify the Corps by November first of each year with a complete list of proposed maintenance activities for the upcoming rainy season but may not proceed until written verification that the activities are covered by RGP No. 53 is issued by the Corps.
- 3) In the event emergency authorization is required, the project must be authorized either under a different Corps permit that addresses those situations or by implementing emergency procedures at 33 CFR Part 325.2(e)(4). A separate application may be required.

(B) Contents of Notification: The notification should be in writing and include the following information:

- 1) Location of the proposed project including latitude and longitude or UTM coordinates;
- 2) Brief description of the work to be preformed;
- 3) Type of structure that will be maintained out, e.g., box culvert, etc;
- 4) Total area that will be impacted, e.g., .02 acre of unvegetated waters of the U.S. and .03 acre of southern willow scrub;
- 5) Description of the adjacent habitats likely to be affected.
- 6) Proposed mitigation. To ensure that all mitigation is commensurate with expected impacts, mitigation requirements shall be based upon: a) quality of existing habitat including consideration of the historical or ultimate habitat types that would be present if there had not been ongoing maintenance activities in the past, and b) frequency of proposed disturbance.

a) Areas with more than minimal wetland/riparian habitat. - Maintenance activities which occur in areas with more than minimal wetland vegetation will require mitigation based on the frequency of the proposed maintenance activities.

1) High Frequency Maintenance Activities. - Maintenance activities that occur more frequently than once every 3 years and that are in areas with more than minimal wetland vegetation will require mitigation through creation,

restoration and/or enhancement. All required wetland mitigation would be on a one-time basis. Future maintenance impacts to mitigation areas would require new mitigation as replacement.

2) Low Frequency Maintenance Activities. - Maintenance activities that occur less frequently, once every 3 years or longer can be mitigated by a program of giant reed (*Arundo donax*) and/or other exotic species removal. The amount of exotic species removal required will be commensurate with the quantity and quality of the habitats being impacted and enhanced and will range from 1:1 to 4:1.

b) Areas with minimal or no wetland/riparian habitat. - No mitigation will be required for maintenance activities that occur in areas where there is currently little or no wetland vegetation and no significant increases in wetland vegetation would be expected to occur in the absence of maintenance activities.

To determine whether an area falls into category 1 or 2 (see above) the Corps will evaluate each site based on specific parameters. The parameters would include: percent vegetation cover, diversity of species, width of existing stream, percent of exotic species present, and whether a site is mowed or treated with herbicides.

(C) Form of Notification: The standard permit application form (Form ENG 4345) may be used for each site, or a series of sites, as the notification and must include all of the information required in (b)(1)-(6) of Special Condition 1. A form may also be used that will be prepared by the Corps in consultation with the permittee, that will contain all relevant information.

(D) District Engineer's Decision: In reviewing the notification for the proposed activity, the District Engineer will determine whether the activity falls within the guidelines of this RGP and if it will result in minimal adverse environmental effects. Activities that exceed the criteria authorized by this RGP will need to be reviewed separately for potential authorization under other general permits or an individual permit.

2. Any work performed under this RGP must be the minimum necessary to alleviate flooding potential in the immediate vicinity of the culvert, bridge and/or channel, and shall not exceed the limits specified for each site in the attached tables. In all areas, trees with a DBH of 2" or greater must be avoided to the maximum extent practicable. The permittee shall stake, flag and/or otherwise mark the impact limits, as well as use appropriate siltation and erosion control measures (e.g. haybails or silt fences), to prevent additional wetland impact and spread of silt from the construction zone into adjacent wetlands and waters. The permittee shall submit to the Corps (cc: USFWS, USEPA and RWQCB) for approval final construction plans and photographs showing fenced limits of impact, and all Corps jurisdictional areas to be impacted and preserved at least 10 days prior to the planned date of initiating waters/wetlands impact authorized by this permit. If wetland impacts occur outside of these limits, all work shall cease and the Corps shall be notified immediately. Any wetland impacts that occur outside of the marked limits shall be mitigated at a minimum 5:1 ratio.

3. Equipment: Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

4. Regional and Case-by-Case Conditions: The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the District Engineer or by the state in its Section 401 water quality certification.

5. Water Quality Certification: A blanket Section 401 water quality certification is currently pending with the State Water Resources Control Board.
6. Coastal Zone Management: An individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)) where the project may affect the Coastal Zone unless general concurrences are issued or waived for this regional general permit.
7. Endangered Species: The permittee shall follow all Reasonable and Prudent Measures, and Terms and Conditions, of the "Biological Opinion on the Regional General Permit #53 for Routine Flood Control Maintenance in San Diego County, California" (1-6-05-F-4297)(USFWS August 29, 2005)(attached) and any amendments.
8. Historic Properties: Impacts to historic properties listed, proposed for listing, or potentially eligible for listing on the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources are inadvertently impacted as a result of actions authorized under this RGP, the permittee shall provide a full report of the action and the impacts incurred by the resource to the Corps within 30 days after completion of the action.
9. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
10. Suitable Material: No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
11. Any excavated material shall be disposed of at a suitable upland site.
12. Spawning Areas: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
13. Obstruction of High Flows: To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).
14. Adverse Effects From Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
15. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
16. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and revegetated with appropriate native riparian or wetland vegetation common to the area.
17. The permittee will remove noxious, invasive exotic plant species from areas immediately upstream, downstream, and adjacent to the area of project impacts where practical. Some species to be removed include: giant reed (*Arundo donax*), salt cedar (*Tamarix* spp.), common reed (*Phragmites australis*), tree tobacco (*Nicotiana glauca*), castor bean (*Ricinus communis*), Russian thistle (*Salsola tragus*), star thistle (*Centaurea*

solstitialis), artichoke thistle (*Cynara cardunculus*), thistle (*Cirsium* spp.) pampas grass (*Cortaderia selloana*), fountain grass (*Pennisetum setaceum*) and cocklebur (*Xanthium strumarium*). Removal of these plants will minimize the recruitment of exotic species within the maintenance activity area which is inherently vulnerable to such recruitment. The Corps will consider the removal of exotic plants as mitigation for certain maintenance activities.

18. The permittee shall submit to the Corps (cc: USFWS, USEPA, RWQCB) by June 1 of each year annual reports (including summary tables, scaled maps, and photographs of the impacts areas, as well as the certification of compliance given below) that summarize activities performed under this RGP, and documents that impacts at each site were not exceeded and compliance with the conditions above.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This RGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This RGP does not grant any property rights or exclusive privileges.

c. This RGP does not authorize any injury to the property or rights of others.

d. This RGP does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this RGP, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this RGP.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this RGP.

4. Reliance on Applicant's Data. The determination of this office that issuance of this RGP is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of RGP Decision.** This office may reevaluate its decision on this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this RGP.
- b. The information provided by you in support of your RGP application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your RGP and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Renewal.** General condition 1 establishes a time limit for the completion of the activity authorized by this RGP. This RGP must be renewed in order to remain valid.

7. **Areas Exempt From The RGP-Brow Ditches.** Brow ditches are constructed adjacent to roadways for the purpose of conveying storm runoff from the road surface. Typically, such drainage ditches are constructed in areas similar to the roadway itself (i.e., in an upland area not otherwise subject to Corps jurisdiction under Section 404 of the Clean Water Act). Such ditches are a road feature and are maintained on a periodic basis just as the roadway would be. Therefore, the Corps typically does not regulate such features.

8. **Activities Not Authorized By This RGP.** This RGP is intended to allow clearing of selected channels with no to only minimal wetland vegetation, and is not intended to allow clearing of creeks with more than minimal wetland vegetation. Clearing of waters of the U.S. including more than minimal wetlands for the maintenance of a roadway in the immediate vicinity is not authorized under this RGP. Native riparian vegetation in relatively natural stream channels is an expected occurrence. The fact that such channels may be adjacent to roadways is due to planning and construction of the roadways, and simple inundation is primarily a short-term inconvenience rather than an imminent threat of loss of life or structural property if appropriate measures are taken to prevent access during such periods.